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In The

Supreme Court of the United States

October Term, 1941.

No. 138

ALEXANDER J. BOCZ,

Petitioner,

v.

HUDSON MOTOR CAR COMPANY, a Michigan Corporation; GENERAL MOTORS CORPORATION, a Corporation of Delaware; FORD MOTOR CAR COMPANY, a Corporation of Delaware; BOHN ALUMINUM & BRASS CORPORATION, a Michigan Corporation; LONG MANUFACTURING COMPANY, a Michigan Corporation; REO MOTOR CAR COMPANY, a Michigan Corporation; HUPP MOTOR CAR COMPANY, a Michigan Corporation; PACKARD MOTOR CAR COMPANY, a Michigan Corporation; CHRYSLER CORPORATION, a Corporation of Delaware.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

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Petitioner, In Pro. Per.

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

To the Honorable the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Your petitioner, above named, submits its petition for a writ of certiorari to review the judgment of the Circuit Court of Appeals for the Sixth Circuit entered in the above cause March 10, 1942.

OPINIONS BELOW.

The opinion of the District Court on crime and conspiracy made in said District against petitioner's civil and property rights (pages 199 to 207 inclusive, transcript of record).

The opinion of said District Court on expired corporations and unregistered corporations, Hupp Motor Car Corporation, and Long Manufacturing Company said corporation's judicated patent rights in said District Court on petitioner's designs and inventions on which petitioner signed contracts July 15, 1925, and September 4th, 1925, with the General Motors Corporation, and his said inventions were and are sold by said General Motors Corporation under contracts to him (pages 208 to 223, transcript of record).

The opinion of the District Court on forgery, theft, mail fraud and conspiracy and Inter-National Patent Fraud with petitioner's inventions in Canada, by the Ford Motor Car Company and General Motors Corporation (pages 224 to 227 transcript of record).

The opinion of the District Court on conspiracy and the use of 450 per cent forgery and stolen assignments on all petitioner's inventions and property (paragraphs 6, 7, 8, 9 and 10, page 239, transcript of record).

The opinion of the District Court an indictment (paragraphs 2, 3, 4, 5, 6 and 7, page 240, transcript of record).

The opinion of the Circuit Court of Appeals, for the Sixth Circuit Case No. 8482 (Petition to Reopen, paragraph 5).

The opinion of the Circuit Court of Sixth Circuit on petition *to reopen.*

JURISDICTION.

The jurisdiction of this court is invoked under Section 240(a) of the Judicial Code, as amended by the act of February 13, 1925.

STATUTES INVOLVED.

The pertinent statutes are set forth in the appendix.

STATEMENT.

On March 27, 1934, your petitioner, instituted an action in the United States District Court for the Eastern District of Michigan, Southern Division, against Hudson Motor Car Company, a Michigan Corporation; General Motors Corporation, a Corporation of Delaware; Ford Motor Car Company, a Corporation of Delaware; Bohn Aluminum & Brass Corporation, a Michigan Corporation; Long Manufacturing Company, a Michigan Corporation; Reo Motor Car Company, a Michigan Corporation; Hupp Motor Car Company, a Michigan Corporation; Packard Motor Car Company, a Michigan Cor-

poration; Chrysler Corporation, a Corporation of Delaware, with offices at Detroit, Michigan. Damages were and are claimed for breach of covenant, fraud, theft, forgery, with 450 per cent forged, stolen and fraudulent assignments by the corporations above named to further the manufacture, sale exchange, rent and obtain patents on petitioner's inventions, prior Canadian Patents and United States Patents covered by agreements or otherwise. On June 9, 1924, a letter agreement was signed by the executive of the Bohn Aluminum & Brass Corporation, and Exhibit 10 (on page 101 transcript) was again reduced to practice by petitioner for said Bohn's executive to embody the same in aluminum, which design was taken from him during the World War by a Dummy Corporation of the Chrysler Corporation, and in June, 1936, said Chrysler Corporation purchased the entire rights of the DUMMY CORPORATION stock holders, in Detroit, Michigan. The General Motors Corporation further extended the alien custodian law, by obtaining patents on Exhibit 7 (page 97 of transcript) the so-called AC pump; *prior petitioner became an AMERICAN CITIZEN.* Said General Motors Research Laboratory further extended said alien custody law against petitioner's property rights, by obtaining patents on Exhibits 12 (page 107, transcript of record) without law. July 15, 1925, said General Motors Corporation signed an agreement with petitioner on his HARMONIC BALANCING SYSTEM, and there was no patent application filed thereon in the United States and Canadian Patent Offices for him by his former patent attorney, Charles E. Wisner, Detroit, Michigan, September 3 and 4, 1925, said General Motors Corporation signed another agreement with petitioner on his Harmonic Balancing Systems, Exhibits 20, 20-A, 21, 21-A, 21-B, 22 (transcript of record) said Wisner did not file any patent

application thereon for petitioner, because said Wisner forged assignments thereon *through said* Wisner's conspiracy with General Motors Corporation, Chrysler Corporation, Packard Motor Car Company's, Long Manufacturing Company's, International Motor Company's, Western Electric Company's, etc., engineers were aided to obtain patents sooner than petitioner thereon. December, 1926, petitioner's testimony was forged or altered for the United States Patent Office by T. S. Donnelly, one of his former patent attorneys, Detroit, Michigan, and Exhibit 22-A (page 137, transcript of record), was stolen from this petitioner, and November 5, 1928, was recorded in the United States Patent Office, and likewise in Canada, and February 5, 1929, a Canadian patent No. 286,909 was issued to petitioner with *his priority date November 1, 1924, on his Harmonic Balancing System.* Said General Motors Corporation instead of settling with petitioner, transferred all its patents and patent applications to Packard Motor Car Company on petitioner's Harmonic Balancing System February 26, 1929. Said General Motors Corporation canceled all its contract agreements with petitioner thereon February 26, 1926, Exhibit 25 (page 142, transcript of record). But said Wisner had 100 per cent forged and fraudulent assignments thereon at that time, December, 1929.

To the extent that the invention (unpatented) may be the subject of bargain and sale.

> "If an invention has been pirated or fraudulently divulged, the inventor cannot thereby lose his right to his own invention and property; * * * it is a general principle, as to all kinds of personal property, that even a *bona fide* purchaser for a valuable consideration can never acquire property of which

another has been deprived by fraud, theft, or violence, or even by a bailment."

Shaw v. Cooper, 7 Peters (U. S.) 501, 4 Am. and Eng. 286-297;
Harvey v. Stokes, 1 Wills Rep. 8;
Hartop v. Hoare, 2 Str. Rep. 1187, 3 Atk. Rep. 44;
Dominus Rex. v. Whiting, Saek Rep. 283.

"In this respect, no difference has ever yet been made between a man's property in his inventions and other property; and there seems to be no reason or principle making a distinction."

Shaw v. Cooper, supra.

In the same case, the court says:

"The statute of Massachusetts securing copyrights (before the Federal Union) begins with a preamble declaring that *'no property is more peculiarly a man's own than that which is produced by the labor of his mind.'* "

Citing:

1 Dane's Abridg. 527.

In *Kendall v. Winsor, 7 Am. & Eng. 10 (Federal Court)* the principle is again stated:

"Inventors are by obligations equally strong, entitled to protection against frauds or wrongs practiced to pirate from them the results of thought and labor, in which nearly a lifetime may have been exhausted; the fruits of more than the *viginiti amorum lucubrationes,* which fruits the public are ultimately to gather. The shield of this protection has been constantly interposed between the inventor

> and fraudulent spoilator by the courts in England, and most signally and effectually has this been done by this court, as is seen in the cases of *Pennock & Sellers v. Dialogue, 2 Pet. 1 (4 Am. & Eng. 217)* and of *Shaw v. Cooper, 7 Pet. 292 (4 Am. & Eng. 286).*"

In *Evans v. Weiss, 2 Wash. C. C. 342,* it was held:

> "The general law of patents declares, that the right to the patent belongs to him who is the first inventor, even before the patent is granted; and therefore, any person, who, knowing that another is the first inventor, yet doubting whether he will apply for a patent, construct a machine invented by another, ACTS AT HIS PERIL, and a subsequent patent will prevent his use of the machine thus erected."

The Ford Motor Company made an attempt to impose duty on the light cars made by said General Motors Corporation through the use of petitioner's Harmonic Balancing System in the United States and shipped into Canada; this Canadian conspiracy was exposed by petitioner to the Canadian Government, that petitioner had and has agreements with said General Motors Corporation thereon as well as petitioner has prior Canadian patents No. 286,909 and 270,608 (pages 44 to 45, transcript of record) and May, 1930, this particular conspiracy ended (Exhibit 33, page 157, transcript of record). The fact remains the auto makers save $44.00 per car through the use of petitioner's *Harmonic Balancing System,* estimated by said Ford Company of Canada, petitioner was not compensated by any of the auto makers for the use thereof, because there are secret insanity charts kept against him by the city physician's office in Detroit, Michigan, to protect the owner

of the 450 per cent forged and fraudulent assignments on all petitioner's inventions, property, etc. The Packard Motor Company further extended this conspiracy by obtaining patents on petitioner's designs, covered by contracts and patents, for its deceased executive Woolson. These patents were claimed to be an improvement of the English patent No. 309,239 to Lanchester. October, 1930, said Wisner claimed under oath this petitioner was abnormal to the Patent Commissioner, February 28, 1931, said Wisner admitted to said Commissioner said Wisner used two names for petitioner in the United States Patent Office, and June 8, 1934, a waiver of said forged assignment was recorded in said Patent Office running from said Wisner to petitioner and a copy thereof is shown on (page 219 to 220, transcript of record). There was another conspiracy made against petitioner's civil and property rights in the Circuit Court, County of Wayne, Michigan, and he was slandered in said state court by Henry B. Bodman, and a copy thereof is shown in the first two paragraphs of page 162, transcript of record. Equity Case No. 5648 was filed against the Hudson Motor Car Company in Detroit, District Court, Michigan, to regain rights and to collect his royalties, which were taken from petitioner *without law* through an English patent No. 309,239 to Lanchester, which English patent was filed three years after petitioner signed contracts on his Harmonic Balancing System, with the General Motors Corporation, and the same was sold all over the world by said corporation under contracts to petitioner and the patent drawings of said Hudson Company's patent No. 1,942,520 to Whisler are the same as petitioner's samples and figures 1 and 2 of Patent No. 1,886,246, and said Hudson Motor Company's patent drawing on a motor head is almost the same as Exhibit 10 (page

101, transcript of record). The Honorable Judge Tuttle made all petitioner's patent claims null and void without jurisdiction because said General Motors Corporation was and is selling petitioner's Harmonic Balancing System and Damper Devices all over the world under contracts to him, and petitioner was not compensated therefor by any of the above named companies, because of said Wisner's 100 per cent assignment conspiracy thereon, and fraudulent insanity charts in said Detroit Physician's Office against him. The Honorable Judge Tuttle gave a decision without judicating the crime above named and thereafter; this petitioner's designs and property was taken by the Chalmers Motor Car Company, a dummy corporation of Chrysler Corporation during the World War, 1917, without law, and his said property was kept by said dummy corporation after petitioner became an American citizen, February 10, 1924, and that the owner of the 450 per cent forged, stolen and fraudulent assignments on petitioner's inventions, patents, etc., signed an agreement with the Graham-Paige Motor Car Company, without his knowledge or consent to develop all his inventions at said Graham-Paige Company's plant. But the Graham-Paige Motor Company sold petitioner's inventions *to Japan in August, 1937*. After the Honorable Judge Tuttle's decision, but no hearing was given by said district judge on petitioner's testimony altered or forged, and the retaken testimony discloses the same.

In the case of *Associated Press v. International News Service, 245 Fed. 244,* the Second Circuit granted an injunction against the fraudulent methods through which the defendant obtained news items from the plaintiff. The court says:

> "Property, *nomen generalissimum, covers everything that has an* exchangeable value, that news possesses the quality stated, seems obvious enough, when it is observed that defendant takes it, in order *to exchange it against dollars.*"

If news, as herein held, is a property right, and the defendant is enjoined from appropriating the same, certainly a work such as created by the petitioner herein would be a similar property right subject to protection and the definition of property as given above in equality applicable.

This case was quoted, among others, with approval by Mr. Justice Pitney in *International News Service v. Associated Press, 248 U. S. 215,* (affirming the decision of the Second Circuit in *Associated Press v. International News Service, 245 Fed. 244).*

The Supreme Court, speaking through Mr. Justice Pitney, says:

> "In order *to sustain the jurisdiction of equity* over the controversy, we need not affirm any general and absolute property in the news as such. The rule that a court of equity concerns itself only in the protection of property rights treats *any civil right of a pecuniary nature as a property right. (In re Sawyer, 124 U. S. 200, 210, 8 Sup. Ct. 482, 31 L. Ed. 402; In re Debs, 158 U. S. 564, 593, 15 Sup.*

Ct. 900; 39 L. Ed.); and the *rights to acquire property by honest labor* or the conduct of a lawful business is as much entitled to protection as the right to guard property already acquired. *(Barr v. Essex Trades Counsel, 53 N. J. Eq. 101, 30 Atl. 881.)* It is this right that furnishes the basis of the jurisdiction in the ordinary case of unfair competition."

It is said that the elements of unfair competition are lacking because there is no attempt by defendant to palm off its goods as those of the complainant, characteristic of the most familiar, if not the most typical cases of unfair competition. *Howe Scale Company v. Wyckoff, Seamans, etc., 198 U. S. 118, 140, 25 Sup. Ct. 609, 49 L. Ed. 972.*

> "In the present case the fraud upon complainant's rights *is more direct and obvious.* * * * defendant's conduct differs from the ordinary case of unfair competition in trade principally in this that, instead of selling its own goods as those of complainant, *it substitutes misappropriation in the place of misrepresentation, and sells complainant's goods as its own.*"

In the case of *Chicago Board of Trade v. Christie G. & S. Company, 198 U. S. 236,* Justice Holmes says:

> "The plaintiff has the right to keep the *work which it has done,* or paid for doing, to itself. The fact that others might do similar work, if they might, does not authorize *to steal* the plaintiff's."

In the case of *Germo Mfg. Company v. Combs et al., decided by the Court of Appeals of Missouri, 240 So. W. Rep. 872,* wherein court held:

> "It is well settled that one who has a secret

process or formula, even *though unpatented, has a property right therein,* which, though subject to be lost, should one honestly discover or rightfully come into the possession of a knowledge of the same, nevertheless will be protected as against those who, *through breach of trust or violated confidence,* attempt to apply the secret *to their own use* or to impart it to others."

Both petitioner's pleading (orally and in writing) show how the corporations and their co-conspirators conspired to defraud him out of his income, inventions, samples, research work, etc., with dummy corporations and FRAUDULENT PATENT POOLS, petitioner's property, motorhead and damper, to the Japanese government in August, 1937.

He would call attention to the case of *E. I. DuPont DeNemours Power Company v. Masland, 244 U. S. 100,* wherein Mr. Justice Holmes pointed out:

"* * * the law makes some rudimentary requirements of good faith. Whether the plaintiffs have any valuable secret or not the defendant knows the facts, whatever they are, through *a special confidence that he accepted.* The property may be denied, but *the confidence cannot be.* * * * the defendant shall not fraudulently *abuse the trust reposed in him.*"

21 C. J., page 113, and cases cited.

"Fraud, indeed in the sense of a court of equity, properly includes all acts, omissions and concealments which involve a breach of legal or equitable duty, trust, or confidence, justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another."

1 Story Eq. Jur., Sec. 187.

"A party has been restrained from using a secret of compounding a medicine not protected by patent, when it appeared that the secret was imparted to him, to his own knowledge, in breach of faith or contract, on the part of the person so communicating."

Williams v. Williams, 3 Meriv 159;
Tipping v. Eckersby, 2 Kay & J. 264.

January, 1939, petitioner filed a claim against the Reo Motor Car Company in bankruptcy in Detroit District Court, based on his contract. His said claim was denied by said District Court in October, 1939, on the Statute of Limitations of the State of Michigan. Petitioner's claim was based on 450 per cent forged, stolen and fraudulent assignments of patents, and on his Canadian Prior Patents it was appealed to the United States Circuit Court of Appeals for the Sixth Circuit, the case number is 8482, and the same was denied. Petitioner filed PETITION TO REOPEN—of which a copy is enclosed and said Reo did not file bankrupty in Canada. February 10, 1942, petitioner's affidavit, certified retaken testimony, samples, log sheets, etc., were stolen at the bus depot in Cincinnati, Ohio, he was unable to plead and submit his documents on forgery and crime properly, because his records above named were stolen at said bus station, petitioner filed *Petition to Reopen* said case in said circuit court to include the documents to transfer this case out of Michigan state.

SPECIFIC ASSIGNMENTS OF ERROR TO BE URGED.

The Circuit Court of Appeals erred:

(1) In sustaining the district judge's decision "Statute of Limitations of the State of Michigan" on petitioner's Canadian rights and conspiracy in Canada, the Reo Motor Car Company did not file bankruptcy in Canada.

(2) In sustaining the district judge's decision to amend or rewrite the transcript of record, when said transcript of record was amended by the General Motors Corporation, and testimony was not sent to a special master.

(3) In determining *"PETITION TO REOPEN."*

(4) In determining "In the case of *Bocz v. Hudson Motor Car Company, 19 Fed. Sup. 385,"* Equity Case No. 5648 District Court, Detroit, Michigan.

Your petitioner respectfully submits and requests this honorable court to grant a binding decision on this Federal and International Law violation above named; over which cause of action the Michigan Compiled Laws 1929, Sec. 13976 has no jurisdiction, the Reo Motor Car Company violated the Bankruptcy Act, in Canada, to wilfully defraud this petitioner out of his income for the use of his prior Canadian Patents.

Your petitioner further respectfully requests this Honorable Court to grant a binding decision on case 5648

in equity which was not tried on the testimony taken to judicate the forged assignments of patent rights, and the secret insanity charts, and that the Hudson Motor Car Company's executives stole the designs from plaintiff and obtained patents thereon and conspiracy of said Graham-Paige. No decision was given on this crime.

Your petitioner further respectfully requests this Honorable Court to transfer the entire case out of Michigan State. Where the honorable judges will not be prejudiced against petitioner as inventor and the testimony taken in Equity case No. 5648 will be sent to a special master for a hearing and report, and that the parties above named be made to answer the charges.

CONCLUSION.

Wherefore your petitioner respectfully prays that this petition be granted.

ALEXANDER J. BOCZ,
Petitioner.